

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

JENNIFER EGLI,

Plaintiff,

vs.

SOFI LENDING CORP., a foreign
corporation, **CITIBANK, N.A.,** a foreign
national association, and **NELNET
SERVICING, LLC,** a foreign limited liability
company,

Defendants.

Case No.

COMPLAINT

(Washington Consumer Protection Act, RCW
19.86.010 et seq., Fraud, Telephone Consumer
Protection Act, 47 U.S.C. § 227 et seq.)

JURY TRIAL DEMANDED

JURISDICTION AND THE PARTIES

1.

This Court has jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1367.

2.

Venue is proper in the Western District of Washington, Tacoma Division, pursuant to 28 U.S.C. § 1391(c)(1) in that Plaintiff Jennifer Egli resides in Camas, Washington, and each of the Defendants do sufficient business in this District to subject them to personal jurisdiction herein pursuant to 28 U.S.C. § 1391(b)(2). Venue is also proper because a substantial part of the events giving rise to the claims occurred in this District. 28 U.S.C. § 1391(b)(2).

3.

Defendant Sofi Lending Corp. ("Sofi") is a foreign corporation doing business in the State of Washington.

4.

Defendant Citibank, N.A. ("Citibank") is a national association bank doing business in the State of Washington.

5.

Defendant Nelnet Servicing, LLC ("Nelnet") is a foreign limited liability company doing business in the State of Washington.

FACTUAL ALLEGATIONS

6.

In 2016, Ms. Egli had a student loan with Citibank. In 2016, she agreed to refinance the old loan with a new loan from Sofi. Citibank sent Ms. Egli a letter dated December 5, 2016, stating that her loan was paid in full, and stopped receiving payments on the old loan. Sofi represented to Ms. Egli that it had paid off the balance of her loan to Citibank, and began receiving payments for the new loan. Sofi sent a check for \$24,598.80 to Citibank. Citibank deposited the check and funds cleared Sofi's account. Unbeknownst to Ms. Egli, funds were not applied to the old Citibank loan, they were not passed along to Nelnet, and funds were returned by Citibank to Sofi. Neither Citibank nor Sofi disclosed to Ms. Egli that funds had been returned or misapplied.

7.

In or about September of 2018, Ms. Egli began receiving correspondence from Firstmark Servicing, a division of Nelnet, stating that it was now servicing the old Citibank loan, and demanding payment for the same. Ms. Egli did not understand why she was receiving invoices and

1 correspondence for the old Citibank loan. Ms. Egli received emails, letters, and at least 56 telephone
2 calls and two text messages to her personal cell phone, even though she had paid the old Citibank
3 loan in full, and therefore had no ongoing relationship with Citibank or Nelnet.

4 8.

5 Ms. Egli contacted Sofi, Citibank and Nelnet to try to determine what was happening with her
6 student loan. Sofi did not disclose that funds had been returned or misapplied in 2016, and continued
7 to receive payment from Ms. Egli for the new loan. Citibank did not disclose that funds had been
8 returned or misapplied in 2016. Nelnet continued to insist that it was entitled to receive payment from
9 Ms. Egli on the old loan.

10 9.

11 Ms. Egli hired a lawyer to assist her in understanding what was happening with her student
12 loan. The lawyer wrote a letter dated November 16, 2018, addressed to Sofi, Citibank and Nelnet on
13 behalf of Ms. Egli, seeking a resolution to the conflict. The lawyer instructed Sofi, Citibank and
14 Nelnet: "Should you have any questions, please give me a call."

15 10.

16 In spite of the lawyer's instruction that calls be directed to him, Nelnet nevertheless continued
17 to call and write Ms. Egli directly. Nelnet placed at least 56 calls and 2 text messages to Ms. Egli's
18 personal cell phone, even after Ms. Egli's lawyer sent the November 16, 2018 letter.

19 11.

20 Ms. Egli's lawyer sent another letter to Nelnet dated December 11, 2018, again instructing
21 Nelnet to cease and desist further contact with Ms. Egli, and directing it to communicate with him.
22 Nelnet acknowledged receipt of the second letter in a letter dated December 13, 2018. In spite of this,
23 Nelnet continued calling Ms. Egli directly. Nelnet placed at least 43 calls and one text message to Ms.
24

1 Egli's personal cell phone after acknowledging the December 11, 2018, cease and desist letter.

2 12.

3 Ms. Egli's lawyer also requested that Sofi provide proof of the payment to Citibank. Sofi
4 produced a copy of the front and back of the check to Ms. Egli's lawyer, as well as an excerpt from a
5 ledger showing that funds had been withdrawn from Sofi's account. Sofi did not disclose to Ms. Egli's
6 lawyer at that time that any funds had been returned by Citibank to Sofi. Sofi continued to withdraw
7 monthly payments from Ms. Egli's bank account.

8 13.

9 Ms. Egli's lawyer sent another letter to Nelnet dated January 9, 2019, again instructing Nelnet
10 to cease and desist further contact with Ms. Egli. In spite of this, Nelnet continued calling Ms. Egli
11 directly on her cell phone. Nelnet placed at least 20 calls and one text message to Ms. Egli's personal
12 cell phone after Ms. Egli's lawyer sent his January 9, 2019, cease and desist letter.

13 14.

14 On January 29, 2019, Nelnet called Ms. Egli on her personal cell phone. She asked Nelnet to
15 cease and desist calling her. Nelnet did not cease and desist. Nelnet called Ms. Egli's personal cell
16 phone at least 7 more times after January 29, 2019.

17 15.

18 Ms. Egli learned that the old Citibank loan was being reported as a delinquent account to the
19 national credit reporting agencies. Ms. Egli has otherwise excellent credit. In 2018 and 2019, credit
20 reports containing the negative Citibank account information were transmitted to Ms. Egli's creditors.
21 As a result, Ms. Egli was not approved for an auto loan on the most favorable terms available, and
22 she was denied a credit card by her credit union.
23
24
25

16.

Citibank sent a letter dated January 31, 2019 to Ms. Egli's lawyer stating that funds had been returned or misapplied to Sofi. Ms. Egli's lawyer communicated Citibank's contention to Sofi on February 14, 2019. On or about March 7, 2019, Sofi responded to Ms. Egli's lawyer and admitted for the first time that funds had been returned by Citibank to Sofi.

17.

Nelnet continued to send communications directly to Ms. Egli, including an email on February 13, 2019, threatening her that "The consequences of default are severe," threatening to refer her to a collection agency, threatening to report her loan as a default to the consumer reporting agencies "which will have a negative impact on your future credit applications," and threatening that "Legal actions may be pursued."

18.

Even after Sofi acknowledged that funds had been returned by Citibank, Sofi continued to withdraw money from Ms. Egli's bank account.

CLAIMS FOR RELIEF

Claim One against Sofi Lending Corp.

Washington Consumer Protection Act

19.

Ms. Egli re-alleges and incorporates paragraphs 1 through 18.

20.

Sofi engaged in unfair or deceptive acts or practices occurring in trade or commerce, in violation of RCW 19.86.090.

1 21.

2 Sofi's unfair or deceptive acts and practices impact the public interest because (1) Sofi by its
3 unfair or deceptive acts or practices in the conduct of trade or commerce induced Ms. Egli to act or
4 refrain from acting; (2) Ms. Egli suffered damage brought about by such action or failure to act; and
5 (3) Sofi's deceptive acts or practices have the potential for repetition.

6 22.

7 Sofi's unfair or deceptive acts and practices caused injury to Ms. Egli in her business or
8 property, including but not limited to out-of-pocket damages of at least \$24,598.80, and general
9 damages including but not limited to harm to her reputation, inconvenience, and loss of time, in an
10 amount to be determined by the jury. Ms. Egli's damages are continuing and subject to amendment at
11 trial.
12

13 23.

14 Ms. Egli is entitled to recover her actual damages, treble damages, and reasonable attorney
15 fees pursuant to RCW 19.86.090.

16 **Claim Two against Sofi Lending Corp**

17 **Fraud**

18 24.

19 Ms. Egli re-alleges and incorporates paragraphs 1 through 18.
20

21 25.

22 Sofi made a representation of an existing fact that it had paid off Ms. Egli's old loan with
23 Citibank. Sofi further failed to disclose that funds had been returned by Citibank. Sofi had a duty to
24 speak because it knew that funds had been returned, rendering its prior representations false. Sofi
25 reiterated the representation to Ms. Egli and her attorney that it had paid off Ms. Egli's old loan and
26

1 again failed to disclose that funds had been returned by Citibank.

2 26.

3 The representations were material in that they induced Ms. Egli to make payments to Sofi and
4 withhold payments from Citibank and Nelnet. The representations were false. Sofi knew that its
5 representations were false. Sofi intended that Ms. Egli act upon its representations. Mr. Egli did not
6 know the representations were false. Ms. Egli relied upon the truth of Sofi's representations. Ms. Egli
7 had a right to rely upon Sofi's misrepresentations.

8 27.

9 Ms. Egli suffered and continues to suffer damages, including but not limited to out-of-pocket
10 damages of at least \$24,598.80, and general damages including but not limited to harm to her
11 reputation, inconvenience, loss of time, invasion of privacy, denial of credit, lost credit opportunity,
12 worry, fear, embarrassment, humiliation, frustration, impairment to normal enjoyment of life, and
13 emotional distress, in an amount to be determined by the jury. Ms. Egli's damages are continuing and
14 subject to amendment at trial.

15
16 **Claim Three against Citibank, N.A.**

17 **Washington Consumer Protection Act**

18 28.

19 Ms. Egli re-alleges and incorporates paragraphs 1 through 18.

20 29.

21 Citibank engaged in unfair or deceptive acts or practices occurring in trade or commerce, in
22 violation of RCW 19.86.090.

23 30.

24 Citibank's unfair or deceptive acts and practices impact the public interest because (1)

1 Citibank by its unfair or deceptive acts or practices in the conduct of trade or commerce induced Ms.
2 Egli to act or refrain from acting; (2) Ms. Egli suffered damage brought about by such action or failure
3 to act; and (3) Citibank's deceptive acts or practices have the potential for repetition.

4 31.

5 Citibank's unfair or deceptive acts and practices caused injury to Ms. Egli in her business or
6 property, including but not limited to out-of-pocket damages of at least \$24,598.80, and general
7 damages including but not limited to harm to her reputation, inconvenience, and loss of time, in an
8 amount to be determined by the jury. Ms. Egli's damages are continuing and subject to amendment at
9 trial.
10

11 32.

12 Ms. Egli is entitled to recover her actual damages, treble damages, and reasonable attorney
13 fees pursuant to RCW 19.86.090.

14 **Claim Four against Citibank, N.A.**

15 **Fraud**

16 33.

17 Ms. Egli re-alleges and incorporates paragraphs 1 through 18.

18 34.

19 Citibank made a representation of an existing fact Ms. Egli's old loan was paid in full. Citibank
20 failed to disclose that it had not applied funds to the loan or that funds had been returned or misapplied
21 to Sofi. Citibank had a duty to speak because it knew that funds had been returned or misapplied,
22 rendering its prior representations false. Because Citibank and Nelnet did not communicate with Ms.
23 Egli regarding the loan for nearly two years after funds were returned or misapplied to Sofi, Ms. Egli
24 was confused by the request for payment in 2018 by a company she did not have any prior dealings
25

1 with, for a loan that Citibank had represented was paid in full in 2016.

2 35.

3 The representations were material in that they induced Ms. Egli to make payments to Sofi and
4 withhold payments from Nelnet. The representations were false. Citibank knew that its
5 representations were rendered false. Citibank intended that Ms. Egli act upon its representations. Mr.
6 Egli did not know the representations were false. Ms. Egli relied upon the truth of Citibank's
7 representations. Ms. Egli had a right to rely upon Citibank's misrepresentations.

8 36.

9
10 Ms. Egli suffered and continues to suffer damages, including but not limited to out-of-pocket
11 damages of at least \$24,598.80, and general damages including but not limited to harm to her
12 reputation, inconvenience, loss of time, invasion of privacy, denial of credit, lost credit opportunity,
13 worry, fear, embarrassment, humiliation, frustration, impairment to normal enjoyment of life, and
14 emotional distress, in an amount to be determined by the jury. Ms. Egli's damages are continuing and
15 subject to amendment at trial.

16 **Claim Five against Nelnet Servicing, LLC**

17 **Telephone Consumer Protection Act**

18 37.

19 Ms. Egli re-alleges and incorporates paragraphs 1 through 18.

20 38.

21
22 On information and belief, Ms. Egli alleges that Nelnet used an automatic telephone dialing
23 system to place each of the calls and text messages to Ms. Egli's personal cell phone.

24 39.

25 Nelnet placed at least 56 calls and 2 text messages to Ms. Egli's personal cell phone. Ms. Egli

1 had paid the old Citibank loan in full, and therefore had no ongoing relationship with Citibank or
2 Nelnet.

3 40.

4 Ms. Egli's lawyer sent a letter dated November 16, 2018, addressed to Nelnet on behalf of Ms.
5 Egli, which read in pertinent part: "Should you have any questions, please give me a call." net placed
6 at least 56 calls and 2 text messages to Ms. Egli's personal cell phone after the date of the letter.
7

8 41.

9 Ms. Egli's lawyer sent another letter to Nelnet dated December 11, 2018, again instructing
10 Nelnet to cease and desist further contact with Ms. Egli, and directing it to communicate with him.
11 Nelnet acknowledged receipt of the second letter in a letter dated December 13, 2018. In spite of this,
12 Nelnet continued calling Ms. Egli directly. N Nelnet placed at least 43 calls and one text message to
13 Ms. Egli's personal cell phone after acknowledging the December 11, 2018, cease and desist letter.
14

15 42.

16 Ms. Egli's lawyer sent another letter to Nelnet dated January 9, 2019, again instructing Nelnet
17 to cease and desist further contact with Ms. Egli. In spite of this, Nelnet continued calling Ms. Egli
18 directly on her cell phone. lnet placed at least 20 calls and one text message to Ms. Egli's personal
19 cell phone after Ms. Egli sent his January 9, 2019, cease and desist letter.
20

21 43.

22 On January 29, 2019, Nelnet called Ms. Egli on her personal cell phone. She asked Nelnet to
23 cease and desist calling her. Nelnet did not cease and desist. Nelnet called Ms. Egli's personal cell
24 phone at least 7 more times after January 29, 2019.

25 44.

26 Nelnet did not have prior express consent to contact Ms. Egli because she had paid her old

1 Citibank loan in full and therefore had no continuing relationship with Citibank or Nelnet. Further,
2 Ms. Egli's lawyer revoked any alleged consent in writing on November 16, 2018, December 11, 2018,
3 and January 9, 2019, and Ms. Egli revoked consent verbally on January 29, 2019.

4 45.

5 Each of Nelnet's calls and the text message to Ms. Egli as described above constituted a
6 separate violation of 47 U.S.C. § 227(b)(1)(A)(iii), causing Ms. Egli actual injury in the form of
7 severe ongoing frustration and annoyance and wasted time, and Ms. Egli is entitled to recover \$500
8 per call for a total of \$29,000, pursuant to 47 U.S.C. § 227(b)(3)(B).

9 46.

10 Each of Nelnet's calls and the text message to Ms. Egli as described above constituted a
11 separate violation of 47 U.S.C. § 227(b)(1)(A)(iii), and Ms. Egli is entitled to recover \$500 per call
12 for a total of \$87,000, pursuant to 47 U.S.C. § 227(b)(3)(C).

13
14 **JURY TRIAL DEMAND**

15 Ms. Egli is entitled to and so respectfully demands a trial by jury.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff Jennifer Egli prays for a judgment as follows:

18 1. On Plaintiff's First Claim for Relief against Defendant Sofi Lending Corp.:

19 A. Actual damages;

20 B. Treble damages;

21 C. Attorney fees and costs;

22 2. On Plaintiff's Second Claim for Relief against Defendant Sofi Lending Corp.:

23 A. Damages;

24 B. Costs;

3. On Plaintiff's Third Claim for Relief against Defendant Citibank, N.A.:

A. Actual damages;

B. Treble damages;

C. Attorney fees and costs;

4. On Plaintiff's Fourth Claim for Relief against Defendant Citibank, N.A.:

A. Damages;

B. Costs;

5. On Plaintiff's Fifth Claim for Relief against Defendant:

A. Statutory damages;

B. Treble damages.

DATED this 16th day of March, 2019.

RESPECTFULLY SUBMITTED,

s/ Justin Baxter

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